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 11 VIDEO GAMING TECHNOLOGIES, INC.,
 12 UNITED CEREBRAL PALSY OF GREATER
 13 SACRAMENTO, WIND YOUTH SERVICES,
 14 ROBERT FOSS, and JOAN SEBASTIANI

15 ADDITIONAL COUNSEL LISTED ON
 16 FOLLOWING PAGE

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18 UNITED STATES DISTRICT COURT
 19 NORTHERN DISTRICT OF CALIFORNIA
 20 SAN FRANCISCO DIVISION

21 VIDEO GAMING TECHNOLOGIES,
 22 INC., dba VGT, Inc., a Tennessee
 23 Corporation; UNITED CEREBRAL
 24 PALSY OF GREATER SACRAMENTO,
 a California Non-Profit Corporation;
 WIND Youth Services, a California Non-
 Profit Corporation; ROBERT FOSS, an
 individual; JOAN SEBASTIANI, an
 individual,

25 Plaintiffs,

26 v.

27 BUREAU OF GAMBLING CONTROL, a
 28 law enforcement division of the California
 Department of Justice; MATHEW J.
 CAMPOY, in his official capacity as the
 Acting Chief of the Bureau of Gambling
 Control,

29 Defendants.

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[PROPOSED] TEMPORARY RESTRAINING
 ORDER AND ORDER TO SHOW CAUSE RE
 PRELIMINARY INJUNCTION

Date:

Time:

Dept.:

Judge:

ADDITIONAL COUNSEL

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1 Having reviewed and fully considered plaintiffs' *Ex Parte* Motion for Temporary
 2 Restraining Order and Order to Show Cause Regarding Preliminary Injunction, the accompanying
 3 memorandum of points and authorities, all declarations submitted in support thereof, and the
 4 complaint on file in this action, the Court finds that:

5 (1) Plaintiffs have a strong likelihood of success on the merits of their claims because
 6 it appears that (1) the electronic bingo aids at issue comply with California Penal Code section
 7 326.5 ("Section 326.5") because they provide paper bingo cards from which a winning pattern
 8 can be determined; (2) the Bureau of Gambling Control's ("Bureau's") interpretation of "card"
 9 under Section 326.5(o) to preclude the use of electronic cards discriminates against disabled
 10 individuals in violation of the federal Americans with Disabilities Act; (3) the Bureau's
 11 interpretation of "card" under Section 326.5(o) to prohibit electronic cards violates plaintiffs' due
 12 process rights; and (4) the other statutes cited in the Bureau's May 2008 cease-and-desist orders
 13 are facially inapplicable.

14 (2) The balance of hardships weighs in favor of plaintiffs. If injunctive relief is not
 15 granted and the Bureau seizes the electronic bingo aids at issue and shuts down bingo facilities
 16 using electronic bingo aids, plaintiffs will be irreparably harmed as follows: the charitable
 17 organization plaintiffs would suffer a severe reduction in revenue and a resulting decrease in their
 18 ability to deliver social services; plaintiff Video Gaming Technologies, Inc. ("VGT") would
 19 suffer a dramatic loss of income and the seizure of its property without due process; and the
 20 individual disabled plaintiffs would lose their freedom to engage in this form of entertainment on
 21 an equal footing with their non-disabled peers.

22 (3) No imminent harm will befall the Bureau or the citizens of California if injunctive
 23 relief is granted and the Bureau is not permitted to effectuate its interpretation of Section 326.5
 24 immediately.

25 (4) The public interest favors granting injunctive relief and maintaining the status quo
 26 to allow bingo facilities to continue to provide revenue to charitable organizations. It is also in
 27 the public interest to ensure that property rights are protected from government seizure without
 28 due process. It is further in the public interest to ensure that disabled persons have access to the

1 same services as non-disabled persons pending resolution of the merits of plaintiffs' case.

2 Accordingly, IT IS HEREBY ORDERED that a temporary restraining order is entered,
 3 effective as of June ___, 2008, at ___:___ m., restraining and enjoining defendants and any
 4 other person and/or entity or agency acting in concert or participation with them (including, but
 5 not limited to, the California Attorney General and any other division or bureau of the California
 6 Department of Justice), from enforcing in any manner (including, but not limited to, seizing
 7 electronic bingo aids, commencing criminal prosecutions, and halting the play of charitable
 8 bingo) the cease-and-desist orders issued by the Bureau on Gilman Street Bingo in Berkeley
 9 (served May 12, 2008), the Sacramento Bingo Center in Sacramento (served May 7, 2008), the
 10 Mayhew Community Bingo Center in Sacramento (served May 8, 2008), the North Watt Bingo
 11 Parlor in Sacramento (served May 8, 2008), and the Madison Mall Bingo Center in Sacramento
 12 (served May 8, 2008). No bond is required.

13 IT IS FURTHER ORDERED that defendants shall appear before the Honorable
 14 Judge _____, in Courtroom ___, of the United States District Court, Northern District
 15 of California, located at _____, on _____, 2008, at ___:___ m., or as soon
 16 thereafter as the matter may be heard, and show cause why a preliminary injunction should not
 17 issue during the pendency of this action restraining and enjoining defendants and any other
 18 person and/or entity or agency acting in concert or participation with them (including, but not
 19 limited to, the California Attorney General and any other division or bureau of the California
 20 Department of Justice), from enforcing in any manner (including, but not limited to, seizing
 21 electronic bingo aids, commencing criminal prosecutions, and halting the play of charitable
 22 bingo) the cease-and-desist orders issued by the Bureau on Gilman Street Bingo in Berkeley
 23 (served May 12, 2008), the Sacramento Bingo Center in Sacramento (served May 7, 2008), the
 24 Mayhew Community Bingo Center in Sacramento (served May 8, 2008), the North Watt Bingo
 25 Parlor in Sacramento (served May 8, 2008), and the Madison Mall Bingo Center in Sacramento
 26 (served May 8, 2008).

27 This Order to Show Cause and supporting papers shall be served on defendants no later
 28 than ___ days before the date set for hearing, and proof of service shall be filed no later than ___

1 court days before the hearing. Any response or opposition to this Order to Show Cause shall be
2 filed and personally served on plaintiffs' counsel no later than ____ court days before the date set
3 for hearing, and proof of service shall be filed no later than ____ court days before the hearing.
4 Any reply brief shall be filed and personally served on defendants no later than ____ court days
5 before the date set for hearing, and proof of service shall be filed no later than ____ court days
6 before the hearing.

7 IT IS SO ORDERED.

8 Dated: June _____, 2008

9 Hon. UNITED STATES DISTRICT JUDGE

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